

1           IN THE UNITED STATES DISTRICT COURT  
2           FOR THE WESTERN DISTRICT OF OKLAHOMA

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4   SEAN SMITH and CRYSTAL SMITH,                 )  
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12    VIDEOTAPED DEPOSITION OF TIM FRANCE  
13    TAKEN ON BEHALF OF THE PLAINTIFFS  
14    IN OKLAHOMA CITY, OKLAHOMA  
15    ON JANUARY 7, 2019

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19    REPORTED BY: KAREN B. JOHNSON, CSR

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1 When I took my PE exam, it was called civil  
2 structural, they had the two together, it was not a  
3 separate one.

4 Q Prior to working at Rimkus, did you have  
5 any exposure to earthquakes?

6 A No.

7 Q Did you have any training on earthquakes  
8 prior to working at Rimkus?

9 A No.

10 Q At Rimkus, isn't it true that you're not  
11 just hired to inspect earthquakes?

12 A That would be true.

13 Q What else are you hired to inspect?

14 A Storm damages.

15 Q Does that include hail and tornado events?

16 A Yes, high wind, hurricanes.

17 Q Flatline winds?

18 A Whatever, yes.

19 Q Do you do fire investigations?

20 A In what regard?

21 Q I think I've asked you this before, we  
22 kind of had a -- a back and forth on that.

23 A Uh-huh.

24 Q Do they ever hire you for fire  
25 investigations at all for Rimkus?

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1 variety of them. Can I tell you which ones, sitting  
2 here, no.

3 Q You know you've done earthquake  
4 inspections for Country Mutual; right?

5 A Yes.

6 Q And you know you've done earthquake  
7 inspections for Chubb; right?

8 A Yes.

9 Q What about have you done earthquake  
10 inspections for Farmers?

11 A I don't recall.

12 Q Can you think of any other insurance  
13 companies that you performed earthquake inspections  
14 for?

15 MR. FELTY: Object to form.

16 THE WITNESS: It was some kind of school,  
17 conglomerative insurance was one, I don't know, it's  
18 kind of a insurance co-op.

19 Q (By Mr. Engel) It's a self-funded state  
20 plan?

21 A Yes.

22 Q Isn't it true when you were hired by  
23 Rimkus, they didn't provide you with any training?

24 MR. FELTY: Object to form.

25 THE WITNESS: They didn't provide it, no.

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1 A No.

2 Q What about these cracks in the brick  
3 finishes is what you're referring to?

4 A For example, in the schools, those were  
5 almost exclusively veneers.

6 Q Okay. So the --

7 A They're a non-structural load-bearing  
8 component.

9 Q So you're saying on the outside of these  
10 schools, these schools are made of brick, but that  
11 brick is a non-structural component; right?

12 A That's the way I understood it.

13 Q And so you saw cracking in the brick on  
14 the schools; right?

15 A In some instances, yes.

16 Q And you attributed that cracking to  
17 differential foundation movement?

18 A Not so much so.

19 Q What did you attribute it to?

20 A That would be the thermal and moisture  
21 variations that occur over time in the brick as they  
22 go through life.

23 Q Okay. So you attribute it to moisture and  
24 thermal variations?

25 A That was one of the causes.

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1 A Yes.

2 Q And these are some of the same conclusions  
3 that you've come to while you're writing the --  
4 these inspection reports; right?

5 A Yes.

6 MR. FELTY: Object to form.

7 Q (By Mr. Engel) Did you and Ms.  
8 Holliday -- or did you or Ms. Holliday gather soil  
9 samples for this inspection?

10 A No.

11 Q Did either of you test the soil to  
12 determine the type of soil underneath the home?

13 A No.

14 Q Of the approximately 50 earthquake  
15 inspections you've done for Rimkus, have you ever  
16 tested the soil underneath the house?

17 A No.

18 Q Isn't it true the Rimkus reports always  
19 reference the USDA?

20 A I can't speak for all Rimkus reports, ones  
21 I do, yes, unless I specifically need it, and then I  
22 will get a geotech out there to do -- if it's  
23 warranted.

24 Q Sure. But you've never done that, you've  
25 never done a soil sample for an earthquake-related

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1      inspection, have you?

2            A      No.

3            Q      Are you aware the USDA site has  
4      generalizations for what type of soil is under a  
5      home?

6            A      Yes.

7            Q      And you're aware that the soil that can be  
8      under a particular home can be completely different  
9      than what's on the USDA map?

10            MR. FELTY: Object to form.

11            THE WITNESS: It can, but highly unlikely.

12            Q      (By Mr. Engel) Have you ever previously  
13      testified that it can vary?

14            A      Pardon?

15            Q      Well, have you ever given your -- have  
16      you -- is it possible that the soil underneath the  
17      home can be completely different than what's on the  
18      USDA map?

19            MR. FELTY: Object to form; asked and  
20      answered.

21            THE WITNESS: It can be, but highly  
22      unlikely.

23            Q      (By Mr. Engel) Isn't it true when you're  
24      doing design work, as an engineer, that you always  
25      get soil samples?

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1 A It's -- it's part of it.

2 Q Yeah. Okay. When you were at the Smith  
3 residence, did Ms. Holliday or you measure the  
4 ground moisture?

5 A No.

6 Q At Rimkus, did they ever train you on  
7 measuring the moisture underneath homes during the  
8 earthquake inspections?

9 A That doesn't -- okay, rephrase that.

10 Q Sure. At Rimkus, did they ever train you  
11 on measuring the moisture in soil during your  
12 earthquake inspections?

13 A No.

14 Q Do you ever consult rainfall maps when  
15 you're doing earthquake inspections?

16 A No.

17 Q Do you ever consult flood maps when you're  
18 doing earthquake inspections?

19 A No.

20 Q Do you ever measure moisture when you're  
21 performing earthquake inspections?

22 A Moisture of what?

23 Q The soil.

24 A Oh, no.

25 Q Do you ever measure thermal variation when

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1 you're performing these earthquake inspections?

2 A No.

3 Q During the -- did you do any of the things  
4 that we've talked about on the Smith residence?

5 MR. FELTY: Object to form.

6 MR. ANDREWS: Same objection.

7 Q (By Mr. Engel) They don't like the  
8 question because I'm trying to tie in the other  
9 questions. Did -- let me ask it this way, did you  
10 measure the moisture in the soil around the Smith  
11 residence?

12 A No.

13 Q Did you go into the attic?

14 A No.

15 Q Did you go into the crawl space underneath  
16 the home?

17 A No.

18 Q Isn't it true that you and Ms. Holliday --  
19 well, you didn't come to any conclusions in this,  
20 did you?

21 A No.

22 Q Okay. So isn't it true Ms. Holliday based  
23 her conclusions without viewing the crawl space?

24 A That would be a fair assumption.

25 Q Is it going to be your testimony you

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1 believe it's not necessary to go into the crawl  
2 space?

3 A Yes.

4 Q Why?

5 A There was nothing there that I saw that  
6 would justify going into it, and, too, if I remember  
7 correctly, there was no direct access to the crawl  
8 space.

9 Q Did you ever consider destructive  
10 investigation to get into there?

11 A No.

12 Q But that's something you could have done  
13 to access if there was no access point; right?

14 A We could propose it, have to get approval  
15 from the property owner then and the client to pay  
16 for the repairs.

17 Q And that's something you guys could have  
18 done; right?

19 A Could have.

20 Q I want to talk about the size of  
21 earthquakes, all right?

22 A Okay.

23 Q How do you measure the size of an  
24 earthquake?

25 A There's -- when you say "measure," by

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1 A There's almost no way I could pull that  
2 out, I would have to go look.

3 Q Why?

4 A There's too many, I don't know. Like I  
5 said, when we do these, I don't -- I don't  
6 necessarily keep track of who -- which carrier I do,  
7 I just do the assignment, turn it in, go to the next  
8 one.

9 Q Okay. Of the ones that I've handed you  
10 right there, how many do you have, half dozen?

11 A Probably. There's six plus my --

12 Q Six plus the Smith?

13 A Smith one, yes.

14 Q Okay. Of the six that you authored for  
15 AAA, is that seven right there?

16 A That would be seven.

17 Q Okay. Of the seven that you authored for  
18 AAA, none of your engineering reports concluded that  
19 there was damage caused by an earthquake; correct?

20 A Yes.

21 Q In fact, your conclusions on all of those  
22 reports were, one, differential soil or differential  
23 foundation movement caused by moisture or improper  
24 construction; is that accurate?

25 A Yes.

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1 MR. FELTY: And to recap our objection as  
2 to form would apply to any and all questions  
3 touching or concerning Exhibit 23, Exhibit 24,  
4 Exhibit 25, Exhibit 26, Exhibit 27 and/or Exhibit  
5 28.

6 MR. ANDREWS: CSAA joins that objection.

7 Q (By Mr. Engel) Is it accurate to say that  
8 these reports look extremely similar?

9 MR. FELTY: Object to form.

10 THE WITNESS: Yes.

11 Q (By Mr. Engel) You can set all those  
12 aside, sir. What number are we on? 29. Okay.  
13 Thank you. I'm wrapping it up, Mr. France.

14 (Exhibit Number 29 marked for  
15 identification and made part of the  
16 record)

17 Q (By Mr. Engel) I'm going to hand you what  
18 I'm marking as 29. Is this an engineering report  
19 that you wrote for Chubb Insurance Company?

20 MR. ENGEL: Y'all are going to maintain  
21 the same objections; right?

22 MR. FELTY: Correct.

23 MR. ANDREWS: That's correct.

24 THE WITNESS: Yes, it is.

25 Q (By Mr. Engel) Do you recall this

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1 space, do you recall Mrs. Smith telling Dr. Holliday  
2 that?

3 MR. ENGEL: Objection to the form.

4 THE WITNESS: I don't, but I also don't  
5 recall finding access to the crawl space.

6 Q (By Mr. Andrews) Do you recall looking  
7 for access to the crawl space?

8 A Yes, particularly around the outside.

9 Q And do you recall ever asking Mrs. Smith  
10 for access to the crawl space?

11 A I don't recall if we did or didn't.

12 Q Is it possible that Dr. Holliday had asked  
13 Mrs. Smith for access to the crawl space without you  
14 being present?

15 A Oh, yes.

16 MR. ENGEL: Asked and answered.

17 THE WITNESS: Yes.

18 Q (By Mr. Andrews) Do you recall Dr.  
19 Holliday ever mentioning to you or indicating to you  
20 that there was not access to the crawl space at the  
21 Smith residence?

22 A Don't recall that.

23 Q Had there been access to the crawl space,  
24 do you believe that it was necessary to enter the  
25 crawl space to investigate the Smith home?